

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

EIGHT MILE STYLE, LLC and MARTIN  
AFFILIATED, LLC,

Plaintiffs,

v.

SPOTIFY USA, INC. and HARRY FOX  
AGENCY, LLC

Defendants

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SPOTIFY USA, INC., THE HARRY FOX  
AGENCY, LLC,

Third-Party Plaintiff,

v.

KOBALT MUSIC PUBLISHING AMERICA,  
INC.,

Third-Party Defendant.

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Civil Case No. 3:19-cv-00736

THE HONORABLE ALETA A. TRAUGER

JURY DEMAND

**MOTION FOR LEAVE TO FILE SUR-REPLY AND TO FILE UNDER SEAL**

Pursuant Local Rules 5.03 and 7.01, and in accordance with Section 5.07 of the Amended Practices and Procedures for Electronic Case Filing (Administrative Order 167-1), Plaintiffs Eight Mile Style, LLC and Martin Affiliated, LLC (collectively “Plaintiffs”) hereby respectfully move for Leave to File a brief, two-page Sur-Reply in further Opposition to Defendant Spotify USA Inc.’s Motion for Protective Order Barring the Deposition of Daniel Ek (“Defendant’s Motion”), and to file an unredacted version of said Sur-Reply under seal.

In support of this motion, Plaintiffs would show the Court that a Sur-Reply is necessary to address positions asserted by Defendant Spotify in their Reply (Doc Nos. 227.1), specifically with regard to Spotify's Sealed Reply Exhibit 3 which contains confidential excerpts of Mr. Duffett-Smith's deposition testimony from the *Bluewater* Case. Plaintiffs believe that this Sur-Reply, which is less than two full pages in length, will assist the Court in coming to a decision on Spotify's Motion. A copy of the proposed Redacted Sur-Reply is attached as Exhibit 1.

Further, Plaintiffs seek leave to file an Unredacted Version of the Sur-Reply Under Seal. Plaintiffs intend to quote portions of Spotify's Sealed Exhibit 3, which the Court already granted leave to file under seal. (Doc. No. 229). Accordingly, Plaintiffs need leave to file the unredacted version of the Sur-Reply Under Seal to preserve the confidential nature of Mr. Duffett-Smith's testimony. To "justify nondisclosure to the public," "[t]he proponent of sealing must provide compelling reasons to seal the documents and demonstrate that the sealing is narrowly tailored to those reasons—specifically, by 'analyz[ing] in detail, document by document, the propriety of secrecy, providing reasons and legal citations.'" *Beauchamp v. Federal Home Loan Mortgage Co.*, 658 F. App'x 202, 207 (6th Cir. 2016).

For similar reasons, this Court has similarly granted similar relief when requested by Spotify. *See, e.g.* Doc. Nos. 53, 94, 185, 229.

Pursuant to Local Rule 7.01(a)(1), Counsel for Plaintiffs have met and conferred with Counsel for Spotify, and the relief requested in the present motion is unopposed.

Dated: February 18, 2022

By: /s/ Richard S. Busch  
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## **CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on February 18, 2022, a copy of the foregoing Motion for Leave to File a Sur-Reply Under Seal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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Executed this 18th day of February, 2022.

/s/ Richard S. Busch